

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03092-BNB

CANDACE L. COLLINS,

Plaintiff,

v.

AGENT JEFFREY RUSSELL, In his Individual and Official Capacity,
AGENT RISENHOOVER, In his Individual and Official Capacity,
AGENT LEVI DESROSIER, In his Individual and Official Capacity,
SERGEANT JOEL BELL, In his Individual and Official Capacity,
TFO PAUL BARBEN, In his Individual and Official Capacity,
TFO JAMES ANDERSON, In his Individual and Official Capacity,
SERGEANT AL PADILLA, In his Individual and Official Capacity,
DETECTIVE DANIEL WILEY, In his Individual and Official Capacity,
DETECTIVE GILBERT LUCIO, In his Individual and Official Capacity,
DETECTIVE O'NEIL, In his Individual and Official Capacity,
DETECTIVE AVEDANO, In his Individual and Official Capacity,
1-20 UNKNOWN LAW ENFORCEMENT OFFICERS, IN Their Individual and Official
Capacities,

Defendants.

ORDER TO DISMISS IN PART AND TO DRAW IN PART

Plaintiff, Candace L. Collins, resides in Thornton, Colorado. On November 14, 2013, Plaintiff initiated this action *pro se* by filing a Complaint pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1343. On November 18, 2013, Magistrate Judge Boyd N. Boland entered an Order to File Amended Complaint and directed Plaintiff to state what each defendant did to her, when the defendant did the action, how the action harmed her, and what specific legal right she believes the defendant violated. Plaintiff was further

directed that there must be an affirmative link between the alleged constitutional violation and each defendant's participation, control or direction, or failure to supervise. Plaintiff filed an Amended Complaint on December 9, 2013.

The Court must construe Plaintiff's Complaint liberally because she is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). If the Complaint reasonably can be read "to state a valid claim on which the plaintiff could prevail, [the Court] should do so despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements." *Hall*, 935 F.2d at 1110.

In the Amended Complaint, Plaintiff asserts that her constitutional rights were violated on November 17, 2011, when Defendant Jeffrey Russell entered her home without permission and remained in the home by ruse and deception. Plaintiff further asserts that Defendant Bell searched her kitchen without permission. Plaintiff states that Defendant Bell opened all kitchen cupboards and, upon finding a gun, directed all remaining officers to search every room of Plaintiff's home. Plaintiff seeks declaratory and injunctive relief and money damages.

Plaintiff has failed to state how Defendants Agent Risenhoover, Agent Levi Desrosier, TFO Paul Barben, TFO James Anderson, Sgt. Al Padilla, Detective Daniel Wiley, Detective Gilbert Lucio, Detective O'Neil, Detective Avedano, and 1-20 Unidentified Law Enforcement Officers participated in any violation of her constitutional rights. Plaintiff was directed in the November 18 Order to assert how each named defendant participated in the alleged constitutional violation so that she could submit an

adequate complaint. *See Gee v. Pacheco*, 627 F.3d 1178, 1186 (10th Cir. 2010). Plaintiff, however, has failed to comply with the directive. Nothing she asserts in the Amended Complaint identifies what Defendants Risenhoover, Desrosier, Barben, Anderson, Padilla, Wiley, Lucio, O'Neil, Avedano, and the other Unidentified Law Enforcement Officers did to violate her rights. These Defendants, therefore, will be dismissed without prejudice. *See id.* Accordingly, it is

ORDERED that the Complaint and claims asserted against Defendants Agent Jeffrey Russell and Sergeant Joel Bell shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that for the reasons stated above Defendants Agent Risenhoover, Agent Levi Desrosier, TFO Paul Barben, TFO James Anderson, Sgt. Al Padilla, Detective Daniel Wiley, Detective Gilbert Lucio, Detective O'Neil, Detective Avedano, and 1-20 Unidentified Law Enforcement Officers are dismissed from the action without prejudice.

DATED at Denver, Colorado, this 12th day of December, 2013.

BY THE COURT:

s/ Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court